

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Close Loopholes in Environmental Laws

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 38 MRSA §414, sub-§8**, as enacted by PL 1997, c. 794, Pt. A, §21, is amended to read:

**8. Effect of license.** Issuance of a license under ~~this chapter~~section 413 does not convey any property right of any sort, or exclusive privilege. Except for toxic effluent standards and prohibitions imposed under the Federal Water Pollution Control Act, Section 307, as amended, compliance with a license issued under section 413 during its terms constitutes compliance with ~~this chapter~~sections 413 to 414-C and section 423-D. It is not a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of the license. The licensee shall take all reasonable steps to minimize or prevent any discharge in violation of a license that has a reasonable likelihood of adversely affecting human health or the environment.

**Sec. 2. 38 MRSA §420-D, sub-§7, ¶A**, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

A. Forest management activities, including associated road construction or maintenance, do not require review pursuant to this section if any road construction is used primarily for forest management activities ~~and is not used primarily to access development~~and the forest management activities and associated roads do not constitute a change in land use under rules adopted by the Department of Conservation, Bureau of Forestry concerning forest regeneration and clear-cutting.

**Sec. 3. 38 MRSA §439-A, sub-§9** is enacted to read:

**9. Ownership of nonconforming lots.** Notwithstanding any provision in a local ordinance to the contrary, when determining whether 2 or more contiguous nonconforming lots or parcels are owned by the same person and are treated as a single lot under this article, the municipal planning board may consider whether the same person owns or has a financial interest in both lots, even if the ownership or financial interest is jointly held with other persons or as a member, officer or shareholder of a corporation.

**Sec. 4. 38 MRSA §480-Q, sub-§7-A, ¶D**, as amended by PL 2001, c. 618, §4, is further amended to read:

D. Any road construction is not used to access development but is used primarily for forest management activities, unless the road is removed and the site restored to its prior natural condition. Roads must be the minimum feasible width and total length consistent with forest management activities. This exemption does not apply to roads that provide access to ~~development~~in a subdivision as defined in Title 30-A, section 4401, subsection 4, for the organized portions of the State, or Title 12, section 682, subsection 2-A, including divisions of land exempted by Title 12, section 682-B, for portions of the State under the jurisdiction of the Maine Land Use Regulation Commission;

## **SUMMARY**

This bill clarifies the "permit shield" provision of the waste discharge law to replace a reference to "this chapter" with a reference to the relevant sections.

The bill also clarifies the forest management exemption of the storm water management law to include some language from a similar exemption in the Natural Resources Protection Act.

The bill provides that when a municipal planning board is determining whether 2 or more contiguous nonconforming lots must be treated as a single lot under shoreland zoning because they are owned by the same person, the planning board may consider whether the same person owns or has a financial interest in both lots, even if such ownership or financial interest is jointly held with other persons or as a member, officer or shareholder of a corporation.

The bill clarifies the exemption from the Natural Resources Protection Act for road construction used primarily for forest management activities and not used to access development. The exemption currently does not apply to roads that provide access to development in a subdivision, and the bill changes the text from "to development in a subdivision" to "to a subdivision."